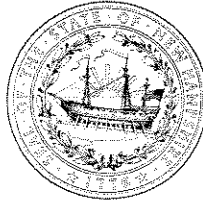


**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

KELLY A. AYOTTE
ATTORNEY GENERAL



MICHAEL A. DELANEY
DEPUTY ATTORNEY GENERAL

September 30, 2005

Section 5 Submission

Chief, Voting Section
Civil Rights Division
Room 7254 – NWB
Department of Justice
950 Pennsylvania Ave., NW
Washington, DC 20006

Re: Submission Under Section 5 of the Voting Rights Act for:

New Hampshire Revised Statute Annotated ("RSA") 655:18, a STATUTE related to the duty of clerks to forward declarations of intent to the secretary of state, most recently amended by Laws of 2001 Chapter 231 and previously amended by the chapters cited below.

Dear Voting Section Chief:

Pursuant to 42 U.S.C. § 1973(c), the State of New Hampshire, through the Office of the New Hampshire Attorney General, hereby submits RSA 655:18, a STATUTE related to the duty of clerks to forward declarations of intent to the secretary of state,, most recently amended by Laws of 2001 Chapter 231 and previously amended by the chapters cited below.

SUBMISSION:

In accordance with 28 C.F.R. § 51.27, the submission is as follows:

- a) Chapter 231 (2001) amending RSA 655:18 is attached (Exhibit 655:18 A).
- b) Chapter 436 (1979) recodifying RSA 56:24 as RSA 655:18 is attached (Exhibit 655:18 B).
- c) The changes made by amendments to RSA 655:18 are as follows:

1. Chapter 231 (2001) removes the last sentence of this statute
- d) This submission is made by: Senior Assistant Attorney General
Orville B. Fitch II, 33 Capitol Street, Concord, New Hampshire 03301,
Phone: (603) 271-1238.
- e) The submitting authority is New Hampshire Attorney General, Kelly
A. Ayotte for the State of New Hampshire.
- f) Not applicable.
- g) The changes for which pre-clearance is sought were made by a
decision of the New Hampshire General Court (Legislature).
- h) In accordance with Amendment X of the U.S. Constitution, the New
Hampshire General Court, the State's legislature, acting pursuant to
the New Hampshire Constitution Part Second, Article 2, granting
supreme legislative power within the state to the House and Senate,
who with right to negate each other are granted power to make law
through Part Second, Article 5. Additional authority regarding
election law is vested in Part First, Article 11.

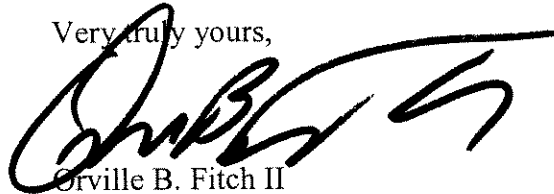
The legislature through a bicameral process passed law to create
Chapter 231 (Exhibit 655:18 A). The bill was signed into law (by the
Governor) on July 13, 2001, pursuant to New Hampshire Constitution
Part Second, Article 44.

- i) Adoption dates:
 1. Chapter 231 (2001) adopted July 13, 2001
- j) Effective dates:
 1. Chapter 231 (2001) effective July 13, 2001
- k) The changes have been enforced.
- l) The changes affect the entire State of New Hampshire.
- m) The purpose for the changes are as follows:
 1. The purpose of the Chapter 231 (2001) change is to remove the
requirement that the secretary of state retain all declarations of
candidacy until January 1 following the holding of the primary

- n) These changes do not negatively target any protected class under section 5 of the Voting Rights Act of 1965. 42 U.S.C. 1973(c). They are expected to have neutral impact and do not meet the test of retrogression defined in *Reno v. Bossier Parish Sch. Bd*, 520 U.S. 471, 478 (1997). “(T)he ability of minority groups...to elect their choices to office” will not be diminished. *Beer v. U.S.*, 425 U.S. 130, 141 (1976).
- o) None known.
- p) RSA 655:18 was precleared through 1979 on June 22, 2004 by D.O.J. file numbers 2004-2563, 2004-2581 and 2004-2582. A copy of this preclearance is attached as Exhibit 655:18 C. This submission seeks preclearance of all subsequent changes.
- q) Not applicable as this is not a redistricting plan.
- r) Exhibit 655:18 D is a copy of a Press Release of this submission, its availability, and inviting comment to federal Department of Justice.

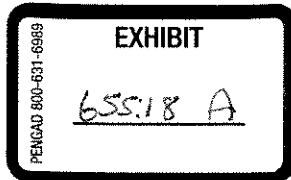
I expect the foregoing information is sufficient to enable the United States Attorney General to make the required determination pursuant to Section 5 of the Voting Rights Act. If further information is required or would be helpful, please contact me.

Very truly yours,



Orville B. Fitch II
Senior Assistant Attorney General
Civil Bureau
(603) 271-1238
bud.fitch@doj.nh.gov

95630.doc



CHAPTER 231

HB 131 - FINAL VERSION

05apr01...0416h

6/7/01...1474s

26june01...1718CofC

26june01...1880eba

2001 SESSION

01-0264

05/09

HOUSE BILL ***131***

AN ACT relative to the retention and disposal of certain financial disclosure forms.

SPONSORS: Rep. Millham, Belk 4; Rep. Major, Rock 16; Sen. Roberge, Dist 9; Sen. Cohen, Dist 24

COMMITTEE: Election Law

ANALYSIS

This bill establishes timelines for the secretary of state to retain and dispose of certain financial disclosure forms.

Explanation: Matter added to current law appears in ***bold italics***.

Matter removed from current law appears [~~in brackets and struck through~~]

Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

05apr01...0416h

6/7/01...1474s

26june01...1718CofC

26june01...1880eba

01-0264

05/09

STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand One

AN ACT relative to the retention and disposal of certain financial disclosure forms.

Be it Enacted by the Senate and House of Representatives in General Court convened:

231:1 New Paragraph; Lobbyists; Statements; Retention of Statement of Fees and Expenditures. Amend RSA 15:3 by inserting after paragraph IV the following new paragraph:

V. The secretary of state shall maintain the statements required by this section for 6 years from the date of filing, after which time the statements may be destroyed.

231:2 Financial Disclosure; Form of Disclosure; Retention of Declaration of Candidacy Form. Amend RSA 15-A:3 to read as follows:

15-A:3 Form of Disclosure. The secretary of state shall determine the forms required under this chapter, which shall appear as part of the acceptance of nomination form and the declaration of candidacy form. The forms shall include the definitions which appear in RSA 15-A:1, and adequate space to provide the required information. ***The secretary of state shall maintain the declaration of candidacy form for 6 years from the date of filing, after which time it may be destroyed.***

231:3 Gifts, Testimonials, and Honorariums; Forms; Place of Filing; Retention of Statement of Gifts, Testimonials, and Honorariums. Amend RSA 15-B:4 to read as follows:

15-B:4 Forms; Place of Filing. The secretary of state shall furnish all forms required under this chapter. All persons filing a statement under this chapter shall file with the secretary of state. ***The statements shall be held in the original form for 6 years from the date of filing, after which time they may be destroyed.***

231:4 New Paragraph; Organization of Executive Branch; Statements of Financial Interest for Board and Commission Members; Retention of Statement of Financial Interest. Amend RSA 21-G:5-a by inserting after paragraph IV the following new paragraph:

V. The secretary of state shall maintain the statement of financial interests for 6 years, after which time the statement may be destroyed.

231:5 New Section; Legislative Ethics Committee; Retention of Financial Forms. Amend RSA 14-B by inserting after section 5 the following new section:

14-B:6 Retention of Financial Disclosure Forms. The legislator's financial disclosure form and the report of expense reimbursement form shall be placed on file in the secretary of state's office, pursuant to ethics guidelines adopted by the legislative ethics committee, and shall be held in original form for 6 years from the date of filing, after which time they may be destroyed.

231:6 New Section; Political Expenditures and Contributions; Reports. Amend RSA 664 by inserting after section 7 the following new section:

664:7-a Statement Retention. Statements or reports required to be filed under RSA 664:6 and 664:7 shall be held in original form for 6 years from the election for which they are filed, after which time they may be destroyed.

231:7 Nominations by Primary; Declarations of Candidacy Amended. Amend RSA 655:18 to read as follows:

655:18 Forwarding Declarations of Candidacy. Each city or town clerk shall forward each declaration of candidacy filed with him to the secretary of state on the day of filing of the same, provided the requisite fee shall have been deposited, or the requisite number of primary petitions shall have been filed therewith. ~~[The secretary of state shall retain them together with all declarations of candidacy filed with him until January 1 following the holding of the primary at which time they may be destroyed.]~~

231:8 Elections; Nomination by Nomination Papers; Filing Names of Candidates; Deadline Changed. Amend RSA 655:40-b to read as follows:

655:16 Personal Filing. Except for those who must file with a town or city clerk, any person who files for a primary on the last day of the filing period must do so in person before the secretary of state; provided, however, that this requirement shall not apply to the filling of vacancies by party committees.

655:17 Declaration of Candidacy. Declarations of candidacy shall be in the following form and signed by the candidate:

I, _____, declare that I am domiciled in Ward _____, in the city (or town or unincorporated place) of _____, county of _____, state of New Hampshire, and am a qualified voter herein; that I am a registered member of the _____ party; that I am a candidate for nomination for the office of _____ (or for delegate to the state convention) to be made at the primary election to be held on the _____ day of _____; and I hereby request that my name be printed on the official primary ballot of said _____ party as a candidate for such nomination or election. I further declare that, if nominated as a candidate for said office or if elected as such delegate, I will not withdraw; and that, if elected, I will be qualified for and will assume the duties of said office.

655:18 Forwarding Declarations of Candidacy. Each city or town clerk shall forward each declaration of candidacy filed with him to the secretary of state on the day of filing of the same, provided the requisite fee shall have been deposited, or the requisite number of primary petitions shall have been filed therewith. The secretary of state shall retain them together with all declarations of candidacy filed with him until January 1 following the holding of the primary at which time they may be destroyed.

655:19 Filing Fees. Unless he chooses to submit primary petitions as provided in RSA 655:20, at the time of filing declarations of candidacy, each candidate, or some person for him, shall pay to the official with whom the same are filed the following fees: for governor and for United States senator, \$100; for representative in Congress, \$50; for counselor, \$25; for state senator, \$10; for county officer, \$5; for state representative, \$2. Candidates for delegate to the state convention shall not be required to pay a fee. The fees paid to a town or city clerk shall be forwarded to the treasurer of the town or city and shall be the property of the town or city for its use.

655:20 Primary Petitions. If he chooses not to pay the filing fee, the name of any person shall be printed on the primary ballot of any party if he files with the appropriate official the requisite number of primary petitions made by members of the party, together with one written assent to candidacy.

655:21 Form. Primary petitions shall be made in the following form:

State of New Hampshire

County of _____, ss.

City (Town) of _____

I do hereby join in a petition for the printing on the primary ballot of the name of _____, whose domicile is in the city (town) of _____ (ward, street and number, if in a city), in the county of _____ for the office of _____,

the _____ day of September, 19____, to be voted for on Tuesday, _____, and certify that I am a registered member of the _____ party, and am not at this time a signer of any other similar petition for any other candidate for the above office; that my domicile is in the city (town)

of _____ (ward, street and number, if in a city), in the county of _____, ss. I further certify that I believe the above-named person is especially qualified to fill said office. (Signed) _____

State of New Hampshire

County of _____, ss.

City (Town) of _____, 19____

The above-named, _____, personally known to me, appeared and made oath that the above petition, by him subscribed, is true. Before me,

Justice of the Peace or Notary Public

655:22 Number of Petitions. The number of primary petitions to be filed for each office shall be as follows: for governor and United States senator, 200; for representative in Congress, 100; for counselor, 50; for county officer, 20; for state senator, 15; for state representative, 5. Candidates for delegate to the state convention shall not be required to submit any primary petitions.

655:23 Conflicting Petitions. Each primary petition shall be a separate paper and shall contain the name of one signer and one candidate only. No voter shall sign primary petitions for more than one party, nor shall he sign more than one primary petition for the same office unless more than one nomination is to be made; in which case, he may sign as many primary petitions as there are nominations to be made for the same office. In case a voter has signed 2 or more such conflicting primary petitions, all such petitions shall be rejected.

655:24 Oath on Petition *Prima Facie* Evidence of Party Membership. The oath of a voter upon such petition shall be *prima facie* evidence that he is a member of the party stated therein.

655:25 Assent to Candidacy. No primary petitions as provided in RSA 655:21 shall be accepted by the official with whom they are to be filed unless there is attached thereto an assent to candidacy in the following form subscribed to by the person who seeks to have his name printed upon the primary ballot:

State of New Hampshire

I, _____, of _____, do hereby assent to the printing of my name on the primary ballot as requested in the attached petition. I further declare that I am a registered member of the _____ party. (Signed) _____

State of New Hampshire

County of _____

The above-named, _____, personally known to me, appeared and made oath that the above declaration by him subscribed, is true.

Before me,

Justice of the Peace or Notary Public

655:26 Examination and Rejection. The officer with whom petitions are filed shall immediately upon receipt thereof examine them to ascertain whether they conform to the law. If found not to conform to be conflicting as provided in RSA 655:23, he shall then endorse

EXHIBIT

655:18

PENGAD 800-631-6999



U.S. Department of Justice

Civil Rights Division

EXHIBIT

PENGAD 800-631-6889

655:18 C

JDR:RPL:SMC:jdh
DJ 166-012-3
2004-2563
2004-2581
2004-2582

Voting Section - NWB
950 Pennsylvania Avenue, N.W.
Washington, DC 20530

June 22, 2004

Orville B. Fitch II, Esq.
Assistant Attorney General
Civil Bureau
Department of Justice
33 Capitol Street
Concord, New Hampshire 03301-6397

Dear Mr. Fitch:

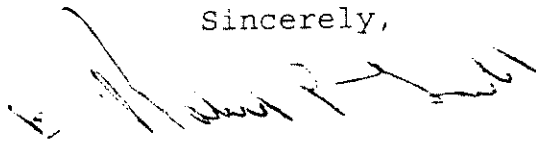
This refers to Session Law Chapter 436 (HB 575) (1979), which recodifies the election laws of the State of New Hampshire; Session Law Chapter 266 (HB 577) (2003), which implements the Help America Vote Act of 2002 (HAVA), 42 U.S.C. 15301-15545; and the adoption of formal administrative procedures for the resolution of election law complaints, including complaints filed under Title III of HAVA, submitted to the Attorney General pursuant to Section 5 of the Voting Rights Act, 42 U.S.C. 1973c. We received your submissions on June 7, 2004.

The Attorney General does not interpose any objection to the specified changes. Regarding Session Law Chapter 266, we note that the act specifically amends the following provisions of the State's election laws: RSA 655:19, II (Chapter 387 (1991)) (to provide for the deposit of certain candidate filing fees collected by the secretary of state into the election fund); RSA 655:19-c (Chapter 387 (1991)) (to provide for the deposit of any administrative assessments paid to the secretary of state into the election fund); RSA 664:3, I (Chapter 351 (1997)) (to provide for the deposit of political committee registration fees paid to the secretary of state into the election fund); RSA 664:21, II (Chapter 351 (1997)) (to provide for the deposit of any administrative fines for violations of the State's campaign finance laws into the election fund); and RSA 665:7 (Chapter 436 (1979)) (to authorize the Ballot Law Commission to hear and resolve complaints alleging violations of Title III of HAVA, as specified).

We note also that Section 5 expressly provides that the failure of the Attorney General to object does not bar subsequent litigation to enjoin the enforcement of the changes. In addition, as authorized by Section 5, we reserve the right to reexamine this submission if additional information that would otherwise require an objection comes to our attention during the remainder of the sixty-day review period. See Procedures for the Administration of Section 5 of the Voting Rights Act (28 C.F.R. 51.41 and 51.43).

Session Law Chapter 266 includes provisions that are enabling in nature. Therefore, the State is not relieved of its responsibility to seek Section 5 preclearance of any changes affecting voting proposed to be implemented pursuant to this legislation (e.g., creation of a centralized statewide voter registration database by the secretary of state and guidelines issued by the secretary of state implementing the database). See 28 C.F.R. 51.15.

Sincerely,

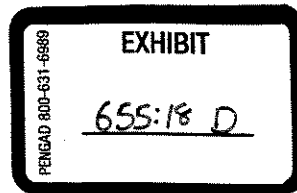
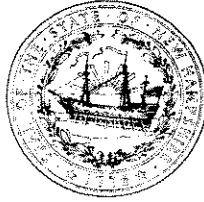
A handwritten signature in dark ink, appearing to read "Joseph D. Rich", is written over a horizontal line.

Joseph D. Rich
Chief, Voting Section

**ATTORNEY GENERAL
DEPARTMENT OF JUSTICE**

33 CAPITOL STREET
CONCORD, NEW HAMPSHIRE 03301-6397

KELLY A. AYOTTE
ATTORNEY GENERAL



MICHAEL A. DELANEY
DEPUTY ATTORNEY GENERAL

News Release

RELEASED BY: Attorney General Kelly A. Ayotte

SUBJECT: Voting Rights Act – Submission of a request for preclearance of changes to New Hampshire Voting laws and procedures

DATE: June 10, 2005

RELEASE TIME: Immediate

Attorney General Kelly A. Ayotte announces the submission of requests for preclearance of changes made to the election laws in New Hampshire to the Federal Department of Justice. Preclearance submissions will address changes made to New Hampshire's election laws since jurisdictions in the State became subject to preclearance.

Ten New Hampshire towns are subject to section 5 of the federal Voting Rights Act. Changes to New Hampshire election laws that affect any of these ten towns must be submitted for review by either the Federal Department of Justice or the Federal District Court for Washington D.C. The federal Department of Justice will review the changes to New Hampshire's election laws to ensure that the changes do not have the effect of denying or abridging the right to vote on account of race or color, or membership in a language minority group. Changes to New Hampshire redistricting statutes have been submitted to, and approved by, the U.S. Justice Department since the 1980 census. Federal regulations require that the public be notified that the State has filed a request for preclearance and that the submission be available for public inspection.

Copies of each submission by the Attorney General for the State of New Hampshire are available at the office of the Attorney General at 33 Capitol Street, Concord New Hampshire, 03301. Each document will also be made available at the Attorney General's Office web site at:

<http://www.doj.nh.gov/elections/>

Attorney General Ayotte and the federal Department of Justice invite persons interested in this submission to submit comments and information, in writing or by telephone, to the Voting Section of the Federal Department of Justice, Civil Rights Division, at the earliest possible date to ensure that they may be considered during the preclearance review time period. Telephone 1-800-253-3931 or (202) 307-2385 or write Chief, Voting Section, Civil Rights Division, Room 7354 – NWB, Department of Justice, 950 Pennsylvania Ave., NW, Washington, DC 20530. The envelope and first page should be marked "Comment under section 5." Additional information on the Voting Rights Act and the preclearance process can be obtained at the web site of the Federal Department of Justice at:

<http://www.usdoj.gov/crt/voting/index.htm>

The New Hampshire Attorney General's Office Voting section can be contacted at:

<http://www.doj.nh.gov/elections/>
New Hampshire Toll Free 1-866-8868-3703
or 1-866-VOTER03
electionlaw@doj.nh.gov